

Senate File 2139 - Introduced

SENATE FILE 2139

BY SCHNEIDER

A BILL FOR

1 An Act relating to the disposition of unused property that was
2 acquired by condemnation and including effective date and
3 applicability provisions.

4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 6B.56, subsection 4, Code 2016, is
2 amended by striking the subsection.

3 Sec. 2. Section 6B.56A, subsection 4, Code 2016, is amended
4 by striking the subsection.

5 Sec. 3. Section 6B.59, Code 2016, is amended to read as
6 follows:

7 **6B.59 Sale of acquired property — reimbursement to**
8 **landowner.**

9 If an acquiring agency acquires property by condemnation,
10 or by otherwise exercising the power of eminent domain, and
11 that property is later sold by the acquiring agency for more
12 than the acquisition price paid to the landowner, the acquiring
13 agency shall pay to the landowner from whom the property was
14 acquired the difference between the price at which it was
15 acquired and the price at which it was sold by the acquiring
16 agency less the cost of any improvements made to or benefiting
17 the land by the acquiring agency. ~~This section does not apply~~
18 ~~to property acquired by the state department of transportation.~~

19 Sec. 4. Section 306.22, subsection 1, Code 2016, is amended
20 to read as follows:

21 1. When title to any tract of land has been or may be
22 acquired for the construction or improvement of any highway by
23 any means other than condemnation, and when in the judgment of
24 the agency in control of the highway, the tract will not be
25 used in connection with or for the improvement, maintenance,
26 or use of the highway, the agency in control of the highway may
27 sell the tract for cash.

28 Sec. 5. Section 306.22, subsection 2, unnumbered paragraph
29 1, Code 2016, is amended to read as follows:

30 The department may contract for the sale of any tract of land
31 described in subsection 1 subject to the following terms and
32 conditions:

33 Sec. 6. Section 306.23, subsections 1 and 2, Code 2016, are
34 amended to read as follows:

35 1. The agency in control of a tract, parcel, or piece of

1 land, or part thereof, which is unused right-of-way shall send
2 by certified mail to the last known address of the present
3 owner of adjacent land from which the tract, parcel, piece of
4 land, or part thereof, was originally purchased ~~or condemned~~
5 for highway purposes, and to the person who owned the land at
6 the time it was purchased ~~or condemned~~ for highway purposes,
7 notice of the agency's intent to sell the land, the name and
8 address of any other person to whom a notice was sent, and the
9 fair market value of the real property based upon an appraisal
10 by an independent appraiser.

11 2. The notice shall give an opportunity to the present owner
12 of adjacent property and to the person who owned the land at
13 the time it was purchased ~~or condemned~~ for highway purposes
14 to be heard and make offers within sixty days of the date the
15 notice is mailed for the tract, parcel, or piece of land to be
16 sold. An offer which equals or exceeds in amount any other
17 offer received and which equals or exceeds the fair market
18 value of the property shall be given preference by the agency
19 in control of the land. If no offers are received within sixty
20 days or if no offer equals or exceeds the fair market value
21 of the land, the agency shall transfer the land for a public
22 purpose or proceed with the sale of the property.

23 Sec. 7. Section 306.23, Code 2016, is amended by adding the
24 following new subsection:

25 NEW SUBSECTION. 4. This section shall not apply to the
26 sale of unused property acquired by condemnation. The sale of
27 unused property acquired by condemnation shall be subject to
28 the requirements of chapter 6B.

29 Sec. 8. Section 331.361, subsection 2, paragraph c, Code
30 2016, is amended to read as follows:

31 c. When unused highway right-of-way is not being sold or
32 transferred to another governmental authority, the county shall
33 comply with the requirements of chapter 6B and section 306.23.

34 Sec. 9. EFFECTIVE UPON ENACTMENT. This Act, being deemed of
35 immediate importance, takes effect upon enactment.

1 Sec. 10. APPLICABILITY. This Act applies to the disposition
2 of condemned property occurring on or after the effective date
3 of this Act.

EXPLANATION

5 The inclusion of this explanation does not constitute agreement with
6 the explanation's substance by the members of the general assembly.

7 Code section 6B.56 provides that if all or a portion of
8 real property condemned is not used for the purpose stated in
9 the condemnation application and the acquiring agency seeks
10 to dispose of the unused real property, the acquiring agency
11 shall first offer the unused real property for sale to the
12 prior owner of the condemned property. Additionally, Code
13 section 6B.56A provides that when five years have elapsed since
14 property was condemned and all or a portion of the property
15 has not been used for the purpose stated in the condemnation
16 application, and the acquiring agency has not taken action to
17 dispose of the unused property pursuant to Code section 6B.56,
18 the acquiring agency shall, within 60 days, adopt a resolution
19 reaffirming the purpose for which the unused property will be
20 used or offering the unused property for sale to the prior
21 owner.

22 Under current law, however, Code section 6B.56 does not
23 apply to the sale of unused right-of-way property under Code
24 chapter 306, and Code section 6B.56A does not apply to property
25 acquired for street and highway projects undertaken by a state,
26 county, or a city. This bill strikes both of those exclusions
27 and amends the provisions of Code chapter 306 relating to the
28 sale of unused property that was acquired for use in connection
29 with the construction or improvement of a highway to provide
30 that the sale of unused property acquired by condemnation shall
31 be subject to the requirements of Code chapter 6B.

32 The bill takes effect upon enactment and applies to the
33 disposition of condemned property occurring on or after the
34 effective date of the bill.